

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 436 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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JAYPRAKASH HASMUKHBHAI JHAVERI

Versus

J.R.VAGHELA & 2

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Appearance:

MR SATISH R PATEL for Petitioner

NOTICE NOT RECD BACK for Respondent No. 1

MR.K.P.RAVAL, APP for Respondent No. 4

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CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 12/08/96

ORAL JUDGEMENT

Rule. Mr. K.P.Raval, learned APP appears and waives service of Rule for the State of Gujarat. With the consent of the learned Advocates, the matter is taken up for final hearing today.

It is an admitted position that "B" Summary was granted without hearing the petitioner- original complainant. Though it has been stated in the impugned order dated 21.4.1994 passed by the learned Judicial Magistrate ( F.C.), Vadodara that Advocate Mr. S.A.Shaikh had appeared for the comploainant, but in fact the said Advocate had not appeared as he was never authorised by the complainant to represent his case.

In the above-referred circumstances, in the interest of justice, it would be just and proper to quash and set aside the order dated 21.4.1994 passed by the learned Judicial Magistrate (FC), Vadodara granting "B" Summary. Hence, the impugned order dated 21.4.1994 is hereby quashed and set aside. It is directed that the Court of learned Judicial Magistrate ( F.C.) should hear the matter afresh after giving an opportunity to the concerned parties.

Rule is made absolute.

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